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Remarks:

*Regarding the amendments to the claims*

Kindly enter the indicated amendments to the claims as presented in this paper without prejudice or traverse. Applicant expressly reserves their right to reinstate any subject matter canceled in the present claims either later in the prosecution of the instant application, or in one or more further patent applications which may be filed (viz., continuation applications) at a later date.

*Regarding the rejection of claim 5 under 35 USC 112:*

The applicant's amendments to the current claims as presented in this paper are believed to address, and overcome, the Examiner's rejection of claim 5. Reconsideration of the propriety of that rejection and its withdrawal is respectfully requested.

*Regarding the rejection of claims 1-5, 7-13 under 35 USC 103(a) in view of WO 95/19132 (hereinafter "WO132"), in combination with WO 02/083829 (hereinafter "WO829") or US 5043089 to Nollet (herinafter "Nollet"):*

The applicants respectfully traverse the rejection of these claims in view of the combined WO132, WO829 and Nollet references.

Turning first to the primary reference, WO 132 the applicant points out that said prior art document comprises a composition useful for removing colour stains from a plastics material in a dishwashing machine which does on the one hand comprise a bleaching agent, peroxide, percarbonate, perborate, surfactant, enzyme and a builder but, on the other hand fails to comprise sodium p-sulphophenyl octyl carbonate as a bleach activator. The Examiner turns to the secondary reference of WO829 to address this shortcoming as this latter document directed to laundry detergent compositions discloses such said formulations which may comprise sodium p-sulphophenyl octyl carbonate as a bleach activator in laundry detergent compositions.

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The applicant first traverses the Examiner's application of the WO829 reference and the Nollet reference as both being directed to a distinguishable field of use, namely laundry detergent compositions as opposed to dishwashing detergent compositions as currently claimed by the present applicants. Although the Examiner asserts at page 5 of the outstanding *Office Action* that "... the plastic material as claimed could include material made of plastic material, including garment. This is also because the process as claimed does not exclude any stained plastic material.", the applicant's present independent claim 1 has been specifically amended to now recite "stained plastic kitchenware and the plastics components of a dishwasher" which is believed to clearly differentiate between garments and textiles which are essentially fibrous in nature, as opposed to molded articles particularly molded plastic kitchenware and the plastics components of dishwasher which are typically self-supporting generally rigid articles as opposed to textiles and garments. Such would be readily apparent by both a "skilled artisan" as well as by a consumer of the currently claimed product or consumer practicing the currently claimed process. Such a distinction would also dissuade a skilled artisan from necessarily considering the laundry detergent compositions of the WO829 reference and the Nollet reference as being relevant to applicant's currently claimed invention and/or reasonably related to dishwashing detergent compositions and dishwashing processes in general, or more specifically to WO132. As is well known in the art, the operating conditions within a washing machine and those of dishwashing machine are both technically distinguishable and such distinctions also dictate the different utilities of different constituents used in forming detergent compositions useful in these different types of machines.

The applicant further traverses the Examiner's reliance on the primary reference used in lodging the instant rejection. The Examiner has previously noted in the record that that WO132 fails to recite the utility of salts of sulphophenyl alkyl carbonates as only the present applicants now teach in their dishwashing detergent compositions and dishwashing detergent processes. The applicants take the position that WO132's total absence of the mere mention of, or identification of the utility of salts of sulphophenyl

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alkyl carbonates "speaks loudly" to the skilled artisan that such specific materials are to be omitted from dishwashing detergent compositions as either having no expected utility, or as possibly deleterious constituents to be used in dishwashing detergent compositions and processes. The absence of the sulphophenyl alkyl carbonate salts from the WO132 reference is quite salient, as the WO132 reference otherwise identifies a large number of other classes of materials which might be used might also dishwashing detergent compositions and dishwashing detergent processes. A skilled artisan considering the relevant prior art at the time the applicant's invention was made would not overlook this salient omission on the part of the WO132 reference and would likely draw the conclusion that salts of sulphophenyl alkyl carbonates have no utility or are desirably to be omitted. It is clear from the record that salts of sulphophenyl alkyl carbonates were known to the general field of detergency as is evidenced, *inter alia*, by the Nollet document which was an available published document which published prior to the earliest filing date of the WO132 application, as Nollet discloses salts of sulphophenyl alkyl carbonates *per se*, in laundry detergent compositions. The applicants of the WO132 reference clearly considered (as is evidenced by their 47 page long specification !) broad classes of potentially useful materials which might be useful and yet, omitted any suggestion or mention of salts of sulphophenyl alkyl carbonates. Thus, it is the applicants view that such an omission in an otherwise copiously drafted patent specification by applicants having a long history of technical successes in the field of detergency chemistry (*viz.*, Procter & Gamble Co.) constructively teach away or teach against the utility of salts of sulphophenyl alkyl carbonates in dishwashing detergent compositions.

The Examiner is again respectfully reminded that with regard to lodging a rejection based on obviousness section MPEP 2143 states that three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or

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suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). Further, unpatentability based on "anticipation" requires that the invention is not in fact new. See *Hoover Group, Inc. v. Custom Metalcraft, Inc.*, 66 F.3d 299, 302, 36 USPQ2d 1101, 1103 (Fed. Cir. 1995) ("lack of novelty (often called 'anticipation') requires that the same invention, including each element and limitation of the claims, was known or used by others before it was invented by the patentee"). Anticipation requires that a single reference describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art. See, *In re Spada*, 911 F.2d 705, 708, 15 USPQ2d 1655, 1657 (Fed. Cir. 1990). It is the applicant's view that these criteria are not met. Accordingly withdrawal of the grounds of rejection is deemed to be proper.

Both the WO829 and the Nollet references are distinguishable from the present invention in that they are directed to laundry treatment compositions and methods for their use in the treatment of textiles and garments. At the threshold it is contended that a skilled artisan would dismiss out of hand these two documents as being related to different compositions used in different machines, e.g., laundry washing liquors under different conditions to treat different substrates than plastics substrates to be cleaned in an automatic dishwashing machine. Nor, is there any teaching or suggestion in the latter two prior art documents which would provide any motivation, or any expectation of success to a skilled artisan reviewing these three documents to have any reason to import the sulphophenylalkylcarbonate type compounds, which are not shown in either WO829 or Nollet to have any beneficial effect on the loosening or removal of difficult-to-remove stains from hard, formed plastic surfaces (plastic wares), or to modify the WO829 of the Nollet laundry compositions for use in an automatic dishwashing machine.

It is the applicant's view that the Examiner's rejection of the claims is in no small part based on a "hindsight reconstruction" of the applicant's invention which is based on a retrospective assemblage of the applicant's claimed invention wherein the prior art,

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especially the prior art reference to WO132 lacks an appropriate teaching or suggestion. Such is impermissible. "Obviousness cannot be established by combining the teachings of prior art to produce the claimed invention, absent some teaching suggestion or incentive supporting the combination [...]" At best, in view of these disclosures, one skilled in the art might find it obvious to try various combinations of these known (scale and corrosion prevention) agents. However, that is not the standard of 35 USC Sec. 103" *In re Geiger* 2 USPQ2d 1276, 1278 (CAFC, 1987) See also *W.L. Gore & Associates, Inc. v. Garlock, Inc.* 220 USPQ 303 (CAFC, 1983).

The present rejection fits the court's description of what may not be done under § 103(a), and thus it is the applicant's position that the rejection under 35 USC 103(a) is improper and should be withdrawn. Further, the Examiner's reliance upon the secondary references in light of the foregoing defects of the primary WO132 reference is believed to be inappropriate. Accordingly reconsideration of the rejection of claims 1-5, 7-13 under 35 USC 103(a) and withdrawal of the rejection in light of the presently amended claims is solicited.

*Regarding the rejection of claims 15 – 20 under 35 USC 102(b) in view of WO829 or Nollett:*

The applicants respectfully traverse the rejection of claims 15 – 20 in view of the WO829 or Nollett references, particularly in light of the amendments entered to those claims.

As has already been generally discussed above, the WO829 or Nollett references are distinguishable in that both said prior art documents fail to teach or suggest the utility of their compositions in automatic dishwashing detergent compositions, or in automatic dishwashing detergent processes useful for removing colour stains from a stained plastic kitchenware and the plastic components of a dishwasher as is presently claimed. Rather the WO829 or Nollett references are directed to teaching laundry detergent compositions and laundering processes useful in the treatment of fibrous textiles and garments.

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Applicant's currently claimed invention is directed to a different technical field, and to a utility which is not taught or suggested by either the WO829 or Nollett references.

Accordingly, reconsideration of the propriety of the rejection of claims 15 – 20 under 35 USC 102(b) in view of WO829 or Nollett in view of currently presented claims and remarks presented above, and withdrawal of said rejection is solicited.

In view of the foregoing amendments to the claims and remarks presented, withdrawal of all grounds of rejection and allowance of the claims to grant is requested. Early issuance of a *Notice of Allowability* is requested.

Should the Examiner in charge of this application believe that telephonic communication with the undersigned would meaningfully advance the prosecution of this application, they are invited to call the undersigned at their earliest convenience.

**PETITION FOR A TWO-MONTH EXTENSION OF TIME**

The applicants respectfully petition for a two-month extension of time in order to permit for the timely entry of this response. The Commissioner is hereby authorized to charge the fee to Deposit Account No. 14-1263 with respect to this petition.

**CONDITIONAL AUTHORIZATION FOR FEES**

Should any further fee be required by the Commissioner in order to permit the timely entry of this paper, the Commissioner is authorized to charge any such fee to Deposit Account No. 14-1263.

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Respectfully Submitted;

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05 March 2007

Date:

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Enclosures – *Request for Continued Examination*

Certification of Telefax Transmission:

I hereby certify that this paper is being telefax transmitted to the US Patent and Trademark Office to telefax number: 571-272-8300 on the date shown below:

Andrew N. Parfomak

Andrew N. Parfomak

05 March 2007

Date:

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